



09 JUN 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
www.uspto.gov

Walter A Hackler  
Patent Law Office  
2372 S.E. Bristol Street  
Suite B  
Newport Beach CA 92660-0755

In re Application of	:	
KIMMELL et al.	:	
Application No.: 10/599,829	:	DECISION ON
PCT No.: PCT/US2005/012122	:	
Int. Filing Date: 11 April 2005	:	PETITION UNDER
Priority Date: 12 April 2004	:	
Attorney Docket No.: 17683(AP)	:	37 CFR 1.137(b)
For: MULTI-SITE INJECTION SYSTEM	:	

This decision is in response to applicant's petition under 37 CFR 1.137(b) filed 31 January 2008.

**BACKGROUND**

On 11 April 2005, applicant filed international application PCT/US2005/012122 which designated the U.S. and claimed a priority date of 12 April 2004. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 24 November 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 12 October 2006.

On 11 October 2006, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, a Transmittal Letter for entry into the United States national stage under 35 U.S.C. 371 and an unexecuted declaration of inventors.

On 16 May 2007, a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) was mailed indicating that the application was abandoned for failure to pay the United States Basic National Fee by thirty months from the priority date. This NOTIFICATION was mailed to Allergan, Inc, in Irvine, CA, which was an incorrect address.

On 25 January 2008, a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) was mailed indicating that the application was abandoned for failure to pay the United States Basic National Fee by thirty months from the priority date. This NOTIFICATION was mailed to the correct address.

On 31 January 2008, applicants filed the instant petition under 37 CFR 1.137(b) which was accompanied by, *inter alia*, an executed declaration of inventors.

### **DISCUSSION**

A petition to revive the present application under 37 CFR 1.137(b) must include:

- (1) The required reply;
- (2) The petition fee;
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted the basic national fee on 31 January 2008.

As to item (2), applicant submitted the petition fee on 31 January 2008.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

### **Declaration of Inventors**

The declaration filed 31 January 2008 is an improper composite declaration, consisting of one of Page 1, one of Page 2, none of Page 3 (see declaration filed 11 October 2006 which does include a Page 3) and two of Page 4 of 4. Each inventor must be presented with a complete declaration which lists all of the inventors, and the signature of each inventor must appear on at least one complete declaration. Multiple complete declarations may be submitted, but it is not permissible to combine pages of separate documents.

### **CONCLUSION**

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Applicants are required to file a proper declaration in compliance with 37 CFR 1.497(a)-(b) within TWO (2) MONTHS from the date of mailing of this decision. Extensions of time may be obtained under 37 CFR 1.136(a).

**Failure to timely file a proper response to this decision in a timely manner will result in abandonment of the application with regards to national stage prosecution in the United States.**

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria,

Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/Daniel Stemmer/

Daniel Stemmer  
Legal Examiner  
PCT Legal Affairs  
Office of Patent Cooperation Treaty  
Legal Administration  
Telephone: (571) 272-3301  
Facsimile: (571) 273-0459